



General Assembly

January Session, 2009

Committee Bill No. 5474

LCO No. 5030

05030HB05474ENV

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CONCERNING PRIVATE, MUNICIPAL AND STATE
RECYCLING, BENEFICIAL USE PERMITS AND ZONING
ORDINANCES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-209f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The Commissioner of Environmental Protection may issue a general
4 permit for a category of processing or beneficial use of solid waste
5 when used in a manufacturing process to make a product or as an
6 effective substitute for a commercial product, provided: (1) Such
7 permit does not allow an activity for which an individual permit has
8 been issued; (2) the issuance of the general permit is not inconsistent
9 with the requirements of the federal Resource Conservation and
10 Recovery Act; (3) the solid wastes included in the category are
11 proposed for the same or substantially similar operations and have the
12 same or similar physical character and chemical composition; (4) the
13 solid wastes included in the category are proposed for the same or
14 substantially similar beneficial use or processing activities; and (5) the
15 commissioner finds that the activities in the category can be

16 adequately regulated using standardized conditions without harming
17 or presenting a threat of harm to public health and safety or the
18 environment. The commissioner's authority to issue a general permit
19 shall not apply to the reuse of hazardous waste as defined in section
20 22a-115. The issuance of the general permit shall be governed by
21 procedures established in subsection [(q)] (h) of section 22a-208a. The
22 general permit may require any person or municipality proposing to
23 conduct any activity under a general permit to register such activity on
24 a form prescribed by the commissioner. The commissioner may
25 designate one or more states that have a similar process and criteria for
26 issuing general permits for the processing or beneficial use of such
27 solid waste and, if such state or states has approved such a permit for a
28 particular beneficial use, the commissioner may issue a general permit
29 for a substantially similar proposed beneficial use in this state and
30 deem such activity to be in compliance with subdivisions (2) and (5) of
31 this section without further investigation.

32 Sec. 2. Subsection (h) of section 22a-220 of the general statutes is
33 repealed and the following is substituted in lieu thereof (*Effective*
34 *October 1, 2009*):

35 (h) On or before August 31, 1991, and annually thereafter, each
36 municipality, or its designated regional agent, shall provide a report to
37 the Commissioner of Environmental Protection describing the
38 measures taken during the preceding year to meet its obligations
39 under this section. The commissioner shall provide each municipality
40 with a form for such report by June 1, 1991. Such form may be
41 amended from time to time. Such report shall include, but not be
42 limited to, (1) a description of the efforts made by the municipality to
43 promote recycling, (2) a description of its efforts to ensure compliance
44 with separation requirements, [(3) the amount of each recyclable item
45 contained in its solid waste stream which has been delivered to a
46 recycling facility as reported to the municipality or its designated
47 regional agent by the owner or operator of a recycling facility pursuant
48 to section 22a-208e or by a scrap metal processor pursuant to section

49 22a-208f, and (4)] and (3) the amount of solid waste generated within
50 its boundaries which has been delivered to a resources recovery
51 facility or solid waste facility for disposal as reported to the
52 municipality or its designated regional agent by the owner or operator
53 of the resources recovery facility or solid waste facility pursuant to
54 section 22a-208e.

55 Sec. 3. Section 22a-241b of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2009*):

57 (a) (1) On or before February 1, 1988, the Commissioner of
58 Environmental Protection shall adopt regulations in accordance with
59 the provisions of chapter 54 designating items that are required to be
60 recycled. The commissioner may designate other items as suitable for
61 recycling and amend said regulations accordingly. (2) On or before
62 February 1, 2010, the Commissioner of Environmental Protection shall
63 amend the regulations adopted under subdivision (1) of this
64 subsection to require the recycling of (A) containers made of
65 polyethylene terephthalate plastic and high-density polyethylene
66 plastic, and (B) chipboard.

67 (b) Any item designated for recycling pursuant to subsection (a) of
68 this section shall be recycled by a municipality within three months of
69 the establishment of service to such municipality by a regional
70 processing center or local processing system.

71 (c) [On and after January 1, 1991, (1) each] (1) Each person who
72 generates solid waste from residential property shall, in accordance
73 with subsection (f) of section 22a-220, separate from other solid waste
74 the items designated for recycling pursuant to subdivision (1) of
75 subsection (a) of this section, and (2) every other person who generates
76 solid waste shall, in accordance with subsection (f) of section 22a-220,
77 make provision for, and cause the separation from other solid waste of
78 the items designated for recycling pursuant to subdivision (1) of
79 subsection (a) of this section. On and after January 1, 2011, the
80 provisions of this subsection shall apply to items designated for

81 recycling pursuant to subdivision (2) of subsection (a) of this section.

82 (d) For the purposes of this section, "chipboard" means a type of
83 thin cardboard.

84 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) For purposes of this
85 section, commercial entity means any individual or sole
86 proprietorship, partnership, firm, corporation, trust, limited liability
87 company, limited liability partnership, joint stock company, joint
88 venture, association or other legal entity through which business for
89 profit or not-for-profit is conducted and "recyclable items" means the
90 items designated for recycling in accordance with subsection (a) of
91 section 22a-241b of the general statutes, as amended by this act. On
92 and after October 1, 2009, no commercial entity shall enter into, or
93 renew, a contract for the collection of solid waste without specifying
94 within such contract how recyclable items will be handled.

95 (b) The provisions of this section shall not be construed to require
96 any commercial entity to contract for the removal of such recyclable
97 items.

98 Sec. 5. (NEW) (*Effective July 1, 2009*) (a) Not later than January 1,
99 2011, the Department of Environmental Protection shall establish a
100 municipal recycling loan program for the purpose of awarding no-
101 interest loans to municipalities to implement recycling programs or
102 improve existing recycling programs. Such loans shall be used by the
103 municipalities for recycling programs, which shall include, but not be
104 limited to: (1) Establishing a system for households and businesses
105 within a municipality to pay for trash removal based upon the volume
106 or weight of solid waste that such households or businesses generate,
107 with no fee for recyclables, (2) establishing other incentives for
108 recycling, such as retail coupons given as awards for meeting volume
109 benchmarks of recycling quantity per household, or (3) establishing
110 single-stream recycling. Each such loan shall be for not more than fifty
111 per cent of the estimated costs for the implementation or improvement
112 of the recycling program and shall not exceed two hundred thousand

113 dollars. A municipality shall be eligible for only one such loan. The
114 total amount of loans awarded annually pursuant to this section shall
115 not exceed four million seven hundred fifty thousand dollars. Such
116 loan program shall terminate on January 1, 2015, or whenever there are
117 no more municipalities applying for such a loan, whichever is earlier.

118 (b) A municipality may apply for a loan by submitting an
119 application to the Department of Environmental Protection on forms
120 prescribed by the commissioner. The commissioner may reject any
121 loan application that the commissioner determines to be incomplete. If
122 the commissioner rejects an application, the commissioner shall
123 promptly notify the applicant of the reasons for the rejection and, not
124 later than fifteen days after the receipt of such notice, such applicant
125 may resubmit the application in the same manner as the original
126 application.

127 (c) Each municipality selected by the commissioner to receive a loan
128 shall submit a recycling plan for the commissioner's approval. Such
129 plan shall include: (1) An estimate of the operational and capital
130 expenses required to implement the plan, (2) goals for recycling, (3) an
131 estimate of savings in tipping fees, workers' compensation costs or
132 other savings, if applicable, (4) a method for tracking the actual cost
133 and savings of the program, and (5) any other information required by
134 the commissioner.

135 (d) Any municipality that receives a no-interest loan in accordance
136 with this section shall begin repayment of the loan not later than one
137 year after the receipt of such loan and the term of such loan shall not
138 exceed four years. Any such repayment shall be deposited in the
139 municipal recycling loan account established under this section.

140 (e) There is established a loan account to be known as the municipal
141 recycling loan account. The account shall be a separate nonlapsing
142 account within the General Fund and shall contain any moneys
143 required by law to be deposited in the account and may be funded
144 from moneys allocated to the program established by this section or

145 from any moneys available to the Commissioner of Environmental
146 Protection or the account from other sources. Payments of principal on
147 a no-interest loan made pursuant to this section shall be paid to the
148 State Treasurer for deposit in the account. The account shall be used to
149 make no-interest loans pursuant to this section and to pay reasonable
150 and necessary expenses incurred in administering loans under this
151 section. The Commissioner of Environmental Protection may enter into
152 contracts with a third-party entity to administer such account,
153 provided no loan shall be made from the account without the
154 authorization of the commissioner as provided in this section. On or
155 after the termination of the loan program created under this section,
156 the commissioner may use the funds of such account to promote
157 recycling efforts or enforce violations of section 22a-241b of the general
158 statutes, as amended by this act, and sections 12 and 13 of this act.

159 (f) The commissioner may retain not more than one hundred fifty
160 thousand dollars annually for administrative expenses associated with
161 the loan program established under this section and the grant program
162 established under section 6 of this act.

163 Sec. 6. (NEW) (*Effective July 1, 2009*) (a) Not later than January 1,
164 2011, the Department of Environmental Protection shall, within
165 available appropriations, establish a municipal recycling receptacle
166 grant program for the purpose of awarding grants to municipalities to
167 purchase recycling receptacles for public spaces, including, but not
168 limited to, parks, schools and municipal buildings where trash
169 receptacles are located. Each such grant shall not exceed five thousand
170 dollars and a municipality shall be eligible for only one such grant. The
171 total amount of grants awarded annually pursuant to this section shall
172 not exceed two hundred fifty thousand dollars.

173 (b) A municipality may apply for a grant for such program by
174 submitting an application to the Department of Environmental
175 Protection on forms prescribed by the commissioner. The
176 commissioner may reject any grant application that the commissioner

177 determines to be incomplete. If the commissioner rejects an
178 application, the commissioner shall promptly notify the applicant of
179 the reasons for the rejection and, not later than fifteen days after the
180 receipt of such notice, such applicant may resubmit the application in
181 the same manner as the original application.

182 (c) Not later than January 1, 2012, and annually thereafter, the
183 Department of Environmental Protection shall submit a report, in
184 accordance with the provisions of section 11-4a of the general statutes,
185 to the joint standing committee of the General Assembly having
186 cognizance of matters relating to the environment. Such report shall
187 include, but not be limited to, the number of grants issued pursuant to
188 this section and the number of loans issued pursuant to section 5 of
189 this act, the number of municipalities to receive such grants or loans,
190 and the amount of solid waste generated by any municipality to
191 receive such a grant or loan the year following the receipt of such grant
192 or loan.

193 Sec. 7. (NEW) (*Effective July 1, 2009*) No municipality shall terminate
194 any municipal employee as a result of the participation of such
195 municipality in the municipal recycling loan program established
196 under section 5 of this act.

197 Sec. 8. Subsection (a) of section 8-2 of the general statutes is repealed
198 and the following is substituted in lieu thereof (*Effective October 1,*
199 *2009*):

200 (a) The zoning commission of each city, town or borough is
201 authorized to regulate, within the limits of such municipality, the
202 height, number of stories and size of buildings and other structures;
203 the percentage of the area of the lot that may be occupied; the size of
204 yards, courts and other open spaces; the density of population and the
205 location and use of buildings, structures and land for trade, industry,
206 residence or other purposes, including water-dependent uses, as
207 defined in section 22a-93, and the height, size and location of
208 advertising signs and billboards. Such bulk regulations may allow for

209 cluster development, as defined in section 8-18. Such zoning
210 commission may divide the municipality into districts of such number,
211 shape and area as may be best suited to carry out the purposes of this
212 chapter; and, within such districts, it may regulate the erection,
213 construction, reconstruction, alteration or use of buildings or
214 structures and the use of land. All such regulations shall be uniform
215 for each class or kind of buildings, structures or use of land throughout
216 each district, but the regulations in one district may differ from those
217 in another district, and may provide that certain classes or kinds of
218 buildings, structures or uses of land are permitted only after obtaining
219 a special permit or special exception from a zoning commission,
220 planning commission, combined planning and zoning commission or
221 zoning board of appeals, whichever commission or board the
222 regulations may, notwithstanding any special act to the contrary,
223 designate, subject to standards set forth in the regulations and to
224 conditions necessary to protect the public health, safety, convenience
225 and property values. Such regulations shall be made in accordance
226 with a comprehensive plan and in adopting such regulations the
227 commission shall consider the plan of conservation and development
228 prepared under section 8-23. Such regulations shall be designed to
229 lessen congestion in the streets; to secure safety from fire, panic, flood
230 and other dangers; to promote health and the general welfare; to
231 provide adequate light and air; to prevent the overcrowding of land; to
232 avoid undue concentration of population and to facilitate the adequate
233 provision for transportation, water, sewerage, schools, parks and other
234 public requirements. Such regulations shall be made with reasonable
235 consideration as to the character of the district and its peculiar
236 suitability for particular uses and with a view to conserving the value
237 of buildings and encouraging the most appropriate use of land
238 throughout such municipality. Such regulations may, to the extent
239 consistent with soil types, terrain, infrastructure capacity and the plan
240 of conservation and development for the community, provide for
241 cluster development, as defined in section 8-18, in residential zones.
242 Such regulations shall also encourage the development of housing

243 opportunities, including opportunities for multifamily dwellings,
244 consistent with soil types, terrain and infrastructure capacity, for all
245 residents of the municipality and the planning region in which the
246 municipality is located, as designated by the Secretary of the Office of
247 Policy and Management under section 16a-4a. Such regulations shall
248 also promote housing choice and economic diversity in housing,
249 including housing for both low and moderate income households, and
250 shall encourage the development of housing which will meet the
251 housing needs identified in the housing plan prepared pursuant to
252 section 8-37t and in the housing component and the other components
253 of the state plan of conservation and development prepared pursuant
254 to section 16a-26. Zoning regulations shall be made with reasonable
255 consideration for their impact on agriculture. Zoning regulations may
256 be made with reasonable consideration for the protection of historic
257 factors and shall be made with reasonable consideration for the
258 protection of existing and potential public surface and ground
259 drinking water supplies. On and after July 1, 1985, the regulations shall
260 provide that proper provision be made for soil erosion and sediment
261 control pursuant to section 22a-329. Such regulations may also
262 encourage energy-efficient patterns of development, the use of solar
263 and other renewable forms of energy, and energy conservation. The
264 regulations may also provide for incentives for developers who use
265 passive solar energy techniques, as defined in subsection (b) of section
266 8-25, in planning a residential subdivision development. The
267 incentives may include, but not be limited to, cluster development,
268 higher density development and performance standards for roads,
269 sidewalks and underground facilities in the subdivision. Such
270 regulations may provide for a municipal system for the creation of
271 development rights and the permanent transfer of such development
272 rights, which may include a system for the variance of density limits in
273 connection with any such transfer. Such regulations may also provide
274 for notice requirements in addition to those required by this chapter.
275 Such regulations may provide for conditions on operations to collect
276 spring water or well water, as defined in section 21a-150, including the

277 time, place and manner of such operations. No such regulations shall
278 prohibit the operation of any family day care home or group day care
279 home in a residential zone. No such regulations shall restrict the size of
280 receptacles or amount of space permitted for the storage of items
281 designated for recycling in accordance with section 22a-241b, as
282 amended by this act. Such regulations shall not impose conditions and
283 requirements on manufactured homes having as their narrowest
284 dimension twenty-two feet or more and built in accordance with
285 federal manufactured home construction and safety standards or on
286 lots containing such manufactured homes which are substantially
287 different from conditions and requirements imposed on single-family
288 dwellings and lots containing single-family dwellings. Such
289 regulations shall not impose conditions and requirements on
290 developments to be occupied by manufactured homes having as their
291 narrowest dimension twenty-two feet or more and built in accordance
292 with federal manufactured home construction and safety standards
293 which are substantially different from conditions and requirements
294 imposed on multifamily dwellings, lots containing multifamily
295 dwellings, cluster developments or planned unit developments. Such
296 regulations shall not prohibit the continuance of any nonconforming
297 use, building or structure existing at the time of the adoption of such
298 regulations. Such regulations shall not provide for the termination of
299 any nonconforming use solely as a result of nonuse for a specified
300 period of time without regard to the intent of the property owner to
301 maintain that use. Any city, town or borough which adopts the
302 provisions of this chapter may, by vote of its legislative body, exempt
303 municipal property from the regulations prescribed by the zoning
304 commission of such city, town or borough; but unless it is so voted
305 municipal property shall be subject to such regulations.

306 Sec. 9. (NEW) (*Effective October 1, 2009*) The Commissioner of
307 Environmental Protection may contract with municipalities or a
308 qualified private organization for the enforcement of the provisions of
309 subsection (c) of section 22a-241b of the general statutes, as amended
310 by this act, subsection (i) of section 22a-220a of the general statutes or

311 section 12 or 13 of this act, and permit such municipality or
312 organization to retain a portion of the proceeds of any fines assessed in
313 accordance with said sections.

314 Sec. 10. (NEW) (*Effective July 1, 2009*) Each state agency, as defined
315 in section 1-79 of the general statutes, that occupies or manages a state
316 building, facility or park shall, within the existing resources of such
317 state agency, develop and execute a list of proposed actions concerning
318 sustainability for such agency's state buildings, facilities or parks. Such
319 list shall include, but not be limited to, methods to increase energy
320 efficiency, provision of a sufficient number of recycling receptacles, a
321 preference for the use of biodegradable cleaning products when
322 feasible and appropriate disposal of recyclable materials. Such list shall
323 be filed with the Department of Environmental Protection not later
324 than August 1, 2010. For the purposes of this section, "state building"
325 means buildings and real property owned or leased by the state.

326 Sec. 11. (NEW) (*Effective October 1, 2009*) (a) Each municipality shall
327 offer curbside recycling to all residents and businesses for which such
328 municipality provides municipal curbside collection of solid waste,
329 except that the provisions of this section shall not apply to any
330 municipality that the Commissioner of Environmental Protection
331 determines recycles its solid waste in a percentage that exceeds the
332 state-wide average for the amount of municipal waste recycled.

333 (b) Each trash hauler that offers curbside collection of solid waste
334 generated by residences in a municipality shall offer curbside recycling
335 to each of such trash hauler's customers at no additional charge above
336 the trash hauler's charge for solid waste collection. The provisions of
337 this subsection shall not be construed to prohibit any trash hauler from
338 determining and adjusting its fees for combined curbside collection
339 services.

340 (c) For the purposes of this section, "curbside recycling" means the
341 collection, by either municipal or private recycling vehicles, of
342 presorted recyclable items left for such collection by residents and

343 businesses in the front of the property of such residents and on the
344 property of businesses, "recyclable items" means the items designated
345 for recycling in accordance with subsection (a) of section 22a-241b of
346 the general statutes, as amended by this act, and excludes bulk items
347 such as furniture, demolition waste or trees, and "collector" has the
348 same meaning as in subsection (g) of section 22a-220a of the general
349 statutes.

350 Sec. 12. (NEW) (*Effective October 1, 2009*) (a) Each public place shall
351 provide recycling receptacles that are accessible to the public at the
352 same location as trash receptacles. For the purpose of this section,
353 "public place" means any privately-owned area or building, or portion
354 thereof, that is open to the public during normal business hours,
355 including, but not limited to, any (1) building that provides facilities or
356 shelter for public assembly, (2) inn, hotel, motel, sports arena,
357 supermarket, transportation terminal, retail store, restaurant or other
358 commercial establishment that provides services or retails
359 merchandise, and (3) museum, hospital, auditorium, movie theater
360 and university building. "Public place" does not include any building
361 owned or leased by the state or any political subdivision thereof.

362 (b) The Commissioner of Environmental Protection may adopt
363 regulations, in accordance with the provisions of chapter 54 of the
364 general statutes, to implement the provisions of this section.

365 (c) Any person who violates this section may be subject to a civil
366 penalty of not more than one thousand dollars for each offense. Each
367 violation of this section shall be a separate and distinct offense and, in
368 case of a continuing violation, each day's continuance thereof shall be
369 deemed to be a separate and distinct offense. The Attorney General,
370 upon the request of the Commissioner of Environmental Protection,
371 shall bring an action in superior court for the judicial district of
372 Hartford to recover such penalty.

373 Sec. 13. (NEW) (*Effective October 1, 2009*) (a) No cleaning or janitorial
374 service employer shall combine segregated items required to be

375 recycled pursuant to subsection (a) of section 22a-241b of the general
376 statutes, as amended by this act, with nonrecyclable solid waste.

377 (b) Any employer that violates subsection (a) of this section shall be
378 subject to a civil penalty of five hundred dollars for each offense. Each
379 violation of said subsection (a) shall be a separate and distinct offense,
380 and, in case of a continuing violation, each day's continuance thereof
381 shall be deemed to be a separate and distinct offense. The Attorney
382 General, upon the request of the Commissioner of Environmental
383 Protection, shall bring an action in superior court for the judicial
384 district of Hartford to recover such penalty. For the purposes of this
385 section, "employer" means one or more individuals, partnerships,
386 associations or corporations or other entity which employs persons.

387 Sec. 14. (NEW) (*Effective July 1, 2009*) (a) For the purposes of this
388 section, "resources recovery facility" has the same meaning as in
389 section 22a-207 of the general statutes and "recyclable item" means the
390 items designated for recycling in accordance with section 22a-241b of
391 the general statutes, as amended by this act.

392 (b) No contract between a municipality and a resources recovery
393 facility entered into or renewed on or after July 1, 2009 may provide
394 that the fees paid by such municipality to such facility shall increase if
395 the tonnage of solid waste delivered to such facility is reduced and the
396 tonnage of recyclable items delivered to such facility is increased.

397 (c) The provisions of this section shall not be construed to permit a
398 municipality to sell such recyclable items to an entity other than the
399 facility in violation of any such contract.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-209f
Sec. 2	<i>October 1, 2009</i>	22a-220(h)
Sec. 3	<i>October 1, 2009</i>	22a-241b
Sec. 4	<i>October 1, 2009</i>	New section

Sec. 5	<i>July 1, 2009</i>	New section
Sec. 6	<i>July 1, 2009</i>	New section
Sec. 7	<i>July 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	8-2(a)
Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>July 1, 2009</i>	New section
Sec. 11	<i>October 1, 2009</i>	New section
Sec. 12	<i>October 1, 2009</i>	New section
Sec. 13	<i>October 1, 2009</i>	New section
Sec. 14	<i>July 1, 2009</i>	New section

Statement of Purpose:

To permit the Commissioner of Environmental Protection to issue a beneficial use permit for activities already permitted in neighboring states without extensive investigation, to relieve municipalities from the requirement of reporting the amount of recyclable items processed for recycling, to require certain plastic containers and chipboard to be recycled, to require commercial solid waste collection contracts to specify how recyclable items will be handled, to create a no-interest loan program for municipal recycling efforts, to create a grant program for municipalities to purchase recycling receptacles, to prohibit zoning ordinances from restricting the amount of space permitted for the storage of recyclables, and to permit the commissioner to contract with municipalities or third parties to enforce violations of the recycling requirements.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. SCHOFIELD, 16th Dist.; REP. BYE, 19th Dist.
 REP. ROY, 119th Dist.; REP. ARESIMOWICZ, 30th Dist.
 REP. O'CONNOR, 35th Dist.; REP. NAFIS, 27th Dist.
 REP. FAWCETT, 133rd Dist.; REP. HURLBURT, 53rd Dist.
 REP. MORRIS, 140th Dist.

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